

New 2013 HOA Bill Summary:

The 2013 Colorado Legislature passed a number of bills this session, which are summarized below:

HB13-1134 (HOA Office): This bill directs the HOA Information Office and Resource Center to conduct a study addressing the need, options and costs involved regarding HOA issues of concern, including: investigation, verification and resolution of HOA complaints; alternative dispute resolution and mediation for HOA complaints; HOA election monitoring and disputes; declarant-controlled board concerns; protections from threats or defamatory conduct arising in HOA matters against boards, directors, homeowners and residents; and determining a per-unit fee upon which to calculate HOA registration fees. The bill expands the production of educational resources by the HOA Office, and also requires all HOAs (including those that are pre-CCIOA) to register with the HOA Office within the Division of Real Estate and provide additional registration information. (eff. 8/7/13)

HB13-1276 (HOA Debt Collection): This bill requires HOAs to establish a collection policy that at a minimum specifies: the date on which assessments must be paid to the association and when an assessment is considered past due; any late fees and interest charged; any returned-check charges; and the circumstances under which a delinquent owner is entitled to enter into a payment plan and the minimum terms of the payment plan.

Furthermore, before the entity turns over a delinquent account to a collection agency or attorney, it must send the unit owner a written notice of delinquency specifying: the total amount due, with an accounting of how the total was determined; whether the opportunity to enter into a payment plan exists and instructions for contacting the entity to enter into the payment plan; the name and contact information for the individual the owner may contact to request a copy of the owner's ledger to verify the amount of the debt; and that action is required to cure the delinquency and failure to do so within 30 days may result in the account being turned over to a collection agency, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the owner's property and other remedies available under Colorado law.

The association, holder or assignee of the association's lien, may only proceed to foreclosure if the balance of the assessments and charges secured by the lien equals or exceeds 6 months of common assessments. The association board must vote on an individual basis to proceed with foreclosure on any specific unit. Owners that are delinquent will have a one-time opportunity to enter into a payment plan to bring their account current, and the payment plan must be for a minimum of six months. The owner must make the payments under the plan as well as pay their current monthly assessment obligations. If one fails to make these payments, the association may proceed with collections. (eff. 1/1/14)

HB13-1277 (HOA Manager Licensing): Community association managers, management company CEOs, and executives of management companies who directly supervise managers will be required to be licensed in Colorado, starting July 1, 2015.

To procure a license, individuals must hold one or more of the following credentials: the Certified Manager of Community Associations (CMCA) certification awarded by the National Board of Certification for Community Association Managers; the Association Management Specialist (AMS) designation awarded by Community Associations Institute (CAI); the Professional Community

Association Manager (PCAM) designation awarded by CAI; or any other credential identified by the Director of the Division of Real Estate.

In addition, one must complete any educational or continuing education requirements as determined by the Division of Real Estate, and pass an examination relating to Colorado law, which includes the Colorado Common Interest Ownership Act (CCIOA), as well as the legal documents and statutes that enable a community association to operate.

Prior to obtaining a license, one must pass a criminal background check. In addition, licensed managers may be subject to discipline by the Division of Real Estate for a variety of offenses. Depending upon the severity of the offense, the discipline may include: an administrative fine not to exceed \$2,500 for each separate offense; censure of a licensee; probation with terms; temporarily suspend a license; or permanently revoke a license.

This bill is lengthy and one should review it in its entirety to become familiar with all its provisions. The Division of Real Estate will perform rule-making in order to implement this bill. (eff. 1/1/15)

SB13-126 (Electric Vehicle Charging stations): This bill allows the installation and use of electric vehicle charging stations on one's property lot and on limited common elements designated for an individual owner's use. This law however, does not require an association to incur expenses with regard to the station's installation. The association will be able to require: adherence to bona-fide safety requirements; registration of the charging station with the association within 30 days of installation; compliance with the association's governing documents, reasonable aesthetic provisions concerning dimensions, placement and external appearance, and design specifications; that the owner engage the services of a licensed and registered electrical contractor familiar with the installation and code requirements for electric vehicle charging stations; provide proof of insurance or payment of the association's increased insurance premium costs related to the charging station; and removal of the system if necessary to maintain the common elements. (eff. 5/3/13)

SB13-183 (Water Conservation Measures): This bill addresses drought conditions and water conservation measures in common interest communities. Regarding the installation of new landscaping or modifying existing landscaping, associations cannot require that turf grass must be installed. In addition, the association cannot require an owner to water their landscaping in violation of water use restrictions, however, the unit owner shall water their landscaping appropriately, but not in excess of any such water restrictions. An association is permitted to adopt and enforce design or aesthetic guidelines that: require the installation of drought-tolerant vegetative landscapes; regulate the type, number and placement of drought-tolerant plantings; and regulate the hardscapes which an owner may install. (eff. 5/10/13)

SB13-182 (Time Share Resale Services – Deceptive Practices): This bill regulates the transfer of timeshares by transfer companies. It provides protection for consumers from aggressive and misleading sales and marketing practices in the resale market by requiring disclosures to the seller and prohibiting advance fees for the transfer of a timeshare. The bill also provides a limited exemption for Colorado licensed Realtors provided they do not collect any advance fees or have a business relationship with any party in a resale/transfer transaction. (eff. 8/7/13)